

BOARD OF FORESTRY AND FIRE PROTECTION

P.O. Box 944246
SACRAMENTO, CA 94244-2460
(916) 653-8007
(916) 653-0989 FAX
Website: www.fire.ca.gov/bof



MINUTES BOARD OF FORESTRY AND FIRE PROTECTION MEETING FEBRUARY 8, 2006 SACRAMENTO

BOARD OF FORESTRY MEMBERS PRESENT:

Stan Dixon, Chairman
Kirk Marckwald, Vice Chair
Gary Ryneerson
Mark Bosetti
David Nawi
Ronald Nehring
Jim Ostrowski
Pam Giacomini
Bruce Saito

BOARD STAFF:

George Gentry, Executive Officer
Eric Huff, Executive Officer, Foresters Licensing
Chris Zimny, Regulations Coordinator
Carol Horn, Executive Assistant

DEPARTMENTAL STAFF:

Ruben Grijalva, Acting Director
Bill Snyder, Deputy Director, Resource Mgmt.
Russ Henly, Asst. Deputy Director, Resource Mgmt.

CALL TO ORDER

Chairman Stan Dixon called the February 2006 meeting of the Board of Forestry and Fire Protection to order.

APPROVAL OF MINUTES

Chairman Dixon asked if the Board Members if they had any additions or changes to the December and January minutes.

02-06-02-Board Member Mark Bosetti moved to approve the minutes from the December and January Board meetings. Member Marckwald seconded the motion, all were in favor, with three abstention. Abstention from Board Members Nawi, Giacomini, and Saito for absence.

REPORT OF EXECUTIVE SESSION

Chairman Dixon commented that the Board met in Executive Session but no action was taken.

CONSENT CALENDAR

No items to report for the Consent Calendar.

REPORT OF THE CHAIRMAN

Chairman Dixon introduced new Board Members Pam Giacomini and Bruce Saito. Mr. Saito looks forward to serving on the Board. Member Giacomini also looks forward to serving on the Board, and will bring a rangeland perspective. Chairman Dixon noted this is the first time we have had a full board since 1999.

REPORT OF THE DIRECTOR

Acting Director Ruben Grijalva distributed several handouts. Chief Grijalva reported on the status of the Sierra Fire, which started from a controlled burn. Chief Grijalva gave an update on the Tulare County contract termination. The transition period should be 12-15 months. The Department is dealing with budget challenges, a \$9-\$18 million dollar deficit. Chief Grijalva updated the Board on the Hemet-Ryan Air Attack Base vs. March AFB. He has discussed the issue in detail with stakeholders, legislators, and pilots, and has reviewed numerous reports. Even within CDF, there is no consensus. Chief Grijalva is trying to improve interdepartmental communications; he has visited numerous CDF units and is meeting with CDF personnel. Chief Grijalva has instituted a weekly memo for all employees. This weekly memo is posted on the CDF intranet. The weekly memos are included in the Director's Report. After reviewing the weekly memos and Director's Report, if Board members find items of interest that they would like a more thorough discussion of, please let the Executive Officer know, and the item will be added to the agenda.

Member Nawi asked Chief Grijalva to explain the circumstances and background as to what started the Sierra fire in relation to the prescribed burn, and what steps can be taken to minimize or eliminate a start of forest fires on prescribed burns.

Chief Grijalva cannot comment on the current fire situation. Chief Grijalva believes there are steps which can be taken to ensure that prescribed burns are done as safely as possible to prevent prescribed burns from becoming uncontrolled wildland fires. Proper training, adequate staffing, monitoring the current wind conditions and fuel moisture, and developing a plan for how that prescribed burn will be conducted are important factors in conducting a safe prescribed burn. Prescribed burns are one of the tools that are utilized to reduce the risk of fire. It is unfortunate when

prescribed burns are the source that causes the uncontrolled fire. Prescribed burns occur throughout the United States on a regular basis. We only hear about the prescribed burns that go bad.

Member Marckwald would like to receive Chief Grijalva's weekly reports.

Member Ostrowski asked why the acreage in timber harvest plans last year declined by over 40% from the previous year.

Bill Synder, Deputy Director, Resource Management, also noticed the same trend from 2003, with first a decline in the number of THPs and last year with a reduction in acreage. Mr. Synder had no clear answer why the plans are down; concern has been expressed over the cost of timber harvest plans. He could take a closer look and compile a brief report for the board of the trends and what is driving the trends.

REPORT OF THE CALIFORNIA OAK MORTALITY TASK FORCE (COMTF)

Ms. Katie Palmieri, representing the California Oak Mortality Task Force, gave a monthly update of the California Oak Mortality Task Force. Ms. Palmieri distributed the report to the Board. The California Oak Mortality Task Force will have two training sessions, the first will be held March 8 in Ukiah and the second session will be April 22 in San Luis Obispo. The Task Force will meet on March 23 in Carmel. Ms. Palmieri hopes some Board members will be able to attend the California Oak Mortality Task Force meeting in March. A year-end report has been posted to the California Oak Mortality Task Force's website.

PRESENTATION OF THE GOLDEN TROWEL AWARD

CDF and the Board of Forestry annually present the Golden Trowel Award to recognize excellence in archaeological site stewardship. The engraved plaque bears a mounted Marshalltown Trowel symbolic of an archaeological surveyor's field tool. The award is given to non-archaeologists for outstanding achievements in the identification and protection of California's archaeological and historical resources within CDF's jurisdiction. The Award is given to those who have completed the Board's Certified Archaeological Surveyor Training Program, which is delivered by the Department in association with the California Licensed Foresters Association.

The 2005 Golden Trowel Award was awarded to Mr. Chuck Schoendienst, RPF #1917, CDF Unit Forester in the Tehama-Glenn Unit. Mr. Schoendienst received the Golden Trowel Award for his outstanding efforts to incorporate archaeological site protection into forestry projects in northern California. Mr. Schoendienst is the 22nd recipient of the Golden Trowel Award.

Senior Archaeologist Rick Jenkins presented a report from the Department on Mr. Schoendienst's accomplishments during the last year. Chairman Dixon presented the Golden Trowel Award on behalf of the Board to Mr. Schoendienst.

REPORT OF THE ADVISORY COMMITTEES

CALIFORNIA FOREST PEST COUNCIL

Mr. Scott Johnson, Chair of California Forest Pest Council congratulated and welcomed the new board members. Mr. Johnson gave an overview of the California Forest Pest Council. The Council is the official advisory committee for the Board of Forestry on forest health issues. It has been in existence since 1951, and consists of many committees. Approximately ten years ago the Council became a non-profit corporation in order to handle money and create more activities. The California Forest Pest Council held their 54th annual meeting on November 15 and 16 in Woodland, California. Approximately 100 people attended to discuss major forest pest issues in the State of California. New officers were elected to the committees and executive board. The next board meeting of the California Forest Pest Council will be held Friday, February 10th in Sacramento. The report from their annual meeting will be posted to their website.

Board Member Nehring asked Mr. Johnson if the Council concerned themselves with forest pests as they relate to areas where timber harvesting is taking place, or those forests around southern California where the bark beetle continues to cause problems and exasperate the fire problem in southern California.

Mr. Johnson replied that the Council is very much concerned with Southern California, much of the pests are the same, but the damage they cause are greatly exasperated by the great urbanization of those areas. In addition to looking at bark beetles and disease issues related to drought damage, one of the biggest things the Council looks at is the invasive weed situation. Normal rainfall allows moisture profile to recharge and trees start pumping water and nutrients and pitch and the trees become healthier and naturally more resistant or co-existent with insects. The insects are always present, but if the tree is healthier, and has water and nutrients it can withstand an attack or visitation by a beetle and the tree will not die. We are in a cycle where things are better than they were a few years ago, but being California in a desert-type climate. Mr. Johnson expects it to happen again. The Council would like to work with the Board, Forest Practice Rules, and southern California counties to ensure that when people do need to manage vegetation and thin forests to minimize fuel load, they understand that forest professionals are allowed to do that in order to maintain an improved forest.

RANGE MANAGEMENT ADVISORY COMMITTEE (RMAC)

Mr. Jeff Stephens, representing the Range Management Advisory Committee (RMAC) reported that the Range Management Advisory Committee will meet on March 21 and 22, one day will be focused on non-point source pollution for California grazing lands and some of the ongoing work the Committee is doing with the State Water Board. Mr. Stephens invited Board Members to attend. Mr. Stephens requested the Board's consideration of a nomination to fill a vacancy for general public member on RMAC. The nominee is Mr. James McCollister, who is a past member of RMAC. If appointed, Mr. McCollister's term would be from date of appointment to January 14, 2010.

Member Bosetti noted Mr. McCollister's outstanding experience, qualifications, and reputation.

02-06-8 –Member Bosetti moved to accept Mr. McCollister's nomination, and approve Mr. McCollister's appointment to the general public position on Range Management Advisory Committee. Member Marckwald seconded the motion, and all were in favor.

MONITORING STUDY GROUP (MSG)

Mr. Pete Cafferata, Forest Hydrologist, Department of Forestry and Fire Protection, Monitoring Study Group (MSG) went over the Monitoring Study Group update, which was included in the Board binder. CDF has developed a contract with CalPoly, San Luis Obispo for a three-year contract to help fund the Little Creek Watershed Study. CDF is developing a contract with Humboldt State University Foundation to help fund an existing sediment study in Humboldt County. The next MSG/IMMP Subcommittee meeting will be held February 17th at the Mendocino National Forest Supervisor's office. An MSG meeting was held on January 24th in Redding at the Shasta-Trinity Unit. The next MSG meeting will be held in Santa Cruz on March 14.

PROFESSIONAL FORESTERS EXAMINING COMMITTEE (PFEC)

There was no PFEC report.

STANDING COMMITTEES OF THE BOARD

POLICY MANAGEMENT COMMITTEE (PMC)

Board Member Nawi, Chair of the Policy Management Committee reported that the Policy Management Committee met yesterday. The Committee's first agenda item was legislation to change the name of the Department of Forestry and Fire Protection to CalFire. The Committee had a robust discussion on slash treatment performance-based rules and best management practices. Chair Nawi suggested that CDF keep coordination between now and next month's meeting to see if a watershed scale demonstration would be possible. The impression Member Nawi received from Keith Greenwood's slides was that under Mr. Greenwood's direction this approach looked like it could be quite protective of the environment, and still allow the operator and landowner to carry out an operation with efficiency and flexibility.

RESOURCE PROTECTION COMMITTEE (RPC)

Member Bosetti, Chairman of the Resource Protection Committee, reported that the Committee met yesterday. Deputy Director Wright gave an update on the Sierra Fire. Tom Hoffman gave a report on training and inspection development, and provided the Committee with a view of a mock-up he developed for distributing the guidelines to the Department. The Committee had discussion about the role PFEC licensing may play. The Committee will discuss this item further at next month's meeting. Deputy Chief Steve Dunlap presented an update on the Amador Plan Task Force. The Task Force is developing a rate formula for Amador Plan cost apportionment. Chief Dunlap will have a document for the Resource Protection Committee to review at next month's meeting. The Committee had a discussion of the Range Management Advisory Committee's VMP recommendations and the VMP EIR. The Committee directed the staff and RMAC staff to work together to bring forth to next month's meeting a policy focusing on vegetation management. The Committee discussed the proposed changes in California Forest Improvement Program rates. Jeff Calvert gave the Committee a list of the proposed changes and background relative to what supported those changes. The Board has 75 days from receipt to adopt any proposed changes to the rate schedule. The Committee instructed staff to further develop the ongoing information supporting those changes in rates. The last time the Board took action to increase rates on CFIP land was ten years ago. Member Bosetti feels

something needs to be done in support of this, but he would like to see more background. Bill Stewart gave a presentation on the fire hazard severity zone mapping project. Bruce Turbeville gave a presentation on the Statewide Fire Safe Council. The Range Management Advisory Committee asked the Board to send a letter to the State Water Resources Quality Control Board asking for clarification on the non-point source pollution control program. Member Bosetti feels it is important that the Board send a letter under the Chairman's signature to the SWRCB. The Committee discussed a letter received by the Executive Officer regarding the request for clarification from the Amador Fire Protection District relative to the 4290 Fire Safe Regulations. The issue has to do with the regulations in which counties were given the opportunity to use the State's minimum standards or adopt standards that were equal to or greater than the State's standards and then ask the Board to certify those standards. The Board certified those changes back in the early-1990s. Amador County is proposing changes to those rules that the Board certified. The Resource Protection Committee feels they have an obligation to review the changes because they are changing something that the Board-certified, they had an obligation to review them.

ACTION ITEM: Member Bosetti made a motion to authorize the Chairman to send a letter to the SWRCB asking for clarification. Member Giacomini seconded the motion. All were in favor.

FOREST PRACTICE COMMITTEE (FPC)

Member Nawi reported that the Forest Practices Committee is at the end of the CLFA regulatory streamlining proposal. The Committee came to a consensus on a package that will be brought to the Board for regulatory action with one exception, they want to find out what is going to happen with the T & I Rules and coordinate the CLFA Streamline Proposal with the T & I Rules. The Committee also had a discussion on the development of road management plan regulations, which was sent to CDF Counsel and Resources Agency Counsel to review of the draft certified regulatory program language. The main item of discussion that generated a great deal of interest was rules regarding T & I watersheds. The focus of the discussion was that it would be helpful if not absolutely necessary to have more information brought to bear on T & I rules. The information would then have to be analyzed, focusing on specific aspects of the T & I rules in effect. This could take a period of many months beyond the date the current rules sunset, which is December 31, 2006. The ultimate decision of the Forest Practice Committee was to ask CDF staff to meet with other agencies to begin putting together the studies that already exist, and come to the Committee with an estimate of what would be the most expeditious timeline with the data review. When the time line is known, the Committee can make an informed judgment on whether it is appropriate to consider an extension of the T & I Rules, or whether it is conceivable or probable that we can have the scientific review done in time to have the results of that feed into the decision of what to do about the T & I Rules by the end of the year. The Committee feels this issue is one of their highest priorities.

Member Ostrowski reported the Committee had discussion of trying to develop a framework or outline of how the research will be summarized.

Member Bosetti reported the Committee discussed the status of stewardship NTMP. The Committee also discussed the Lake Tahoe Region Emergency Exemption. The Board passed and adopted emergency rules pertinent to the Lake Tahoe Region. The emergency is going to expire. The Committee's recommendation to the Board is move it forward for Board discussion.

ACTION ITEM: Member Bosetti made a motion to readopt the Lake Tahoe Region Emergency Exemption for a period of 120 days. Member Marckwald seconded the motion. All in favor.

9. HEARING: THE BOARD WILL CONSIDER ADOPTION OF THE PROPOSED RULE LANGUAGE FOR DEFENSIBLE SPACE, 2005

Mr. Chris Zimny, Regulations Coordinator, gave a summary of the proposed rule language for defensible space 2005, which was included in the Board Binder. Mr. Zimny said the regulation was initially noticed for 45-days in October 2005, following the 2005 amendments to statute PRC 4291 which expanded and required defensible space clearing around homes from 30 feet to 100 feet. At the January hearing the Board motioned to adopt amendments brought by the Department to a 15-day notice. Mr. Zimny reported the vast majority of the changes were made to the Guidelines Section. The regulation, itself, was not changed much. The regulation was intentionally chosen by the Board to be a broad performance-based representation of what a person might do. The regulation and guidelines are two separate pieces. During the 15-day notice, the guidelines received much comment on its clarity and communication of the actual words in the document. As part of the 15-day notice, changes included adding in additional specifications for how to achieve the guidelines through vegetation management. One clarification was to allow groups of vegetation not just individual single species to be permitted to have spacing under the guideline's specifications.

Mr. Zimny reported on the Public Comment and Preliminary Responses on Defensible Space 2005, Executive Summary of Potential Regulation/Guideline Changes. This is a 71 page document, included in the Board Binder's. New pictures of chaparral setting were included.

Member Nawi feels because the statute is not restrictive to State Responsibility Areas (SRA), and the Board intends the regulation to apply only to SRA, it would be good to include clarifying language in the regulation stating this does not excuse areas outside of SRA from compliance of the statute.

Staff Chief Tom Hoffman thanked the Board for their support in the development of the regulation. Mr. Hoffman said ten or twelve years ago, Government Code Section 51182 was amended to be a companion provision marrying 4291. When the 100 foot change was made to 4291, all of the wording was changed consistent in the Government Code. The only difference in the Government Code is that it only applies in LRA in very high fire severity zones in LRA and occupied structures. As far as the absence of SRA specificity in the Public Resources Code, if the Board specified SRA it would result in those regulations not applying to Forest Service Property. The lands of burning California are divided into three categories: State Responsibility Area (SRA), Local Responsibility Area (LRA) and Forest Service Responsibility Area (FRA). By leaving SRA specificity in the regulations, the Department would interpret it as not applying on Forest Service property. The Forest Service does not have many structures on federal land. The Department supports all changes in the 15-day notice.

Member Nehring felt that the regulation should be more user-friendly and not have that government look. After reading through the regulations, Member Nehring is not sure if he is in compliance with his residence. There is a need for more clarity. If an inspector says I'm here to help you reduce the likelihood of your home burning down, rather than I'm here to club you over the head with something you don't want to do and traipse around your property there will be a greater success. Mr. Hoffman is putting together a training program to get everyone in the State in compliance with the regulation.

Mr. Hoffman agrees with Member Nehring.

Mr. Zimny said the gist of the public comment was to make it clear that you don't have to clear everything.

Member Bosetti said relative to CDF's authority and enforcement, enforcement can only be made on SRA land. CDF has not gone on to federal lands.

Chairman Dixon moved to open the public hearing, and asked anyone wishing to address the board, to please fill out a blue speaker card.

Public Comment

Mr. John Hoffman, representing the Regional Council of Rural Counties, asked if the recommendations focus on what can be done in the 30 to 100 foot zone and the law or statute does not stipulate any different language for the first area compared to the second zone, can they assume that the guidelines for the 30 to 100 foot zone is applicable to the first 30 foot. The first 30 feet zone seems to be ignored. In LRA, most areas will end within the first 30 foot zone. What needs to be done in the first 30 feet?

Jodi Frediani, representing Citizens Responsible for Forest Management and Sierra Club, Ventura Chapter felt the first 30 foot language needs clarification. Training programs should be available for CDF Inspections. Insurance companies have jumped ahead of the Board by trying to get compliance within the regulation by telling homeowners are not in compliance with this new law. Concerned landowners may lose their homeowners insurance. Ms. Frediani does not understand how insurance companies can determine whether homeowners are in compliance when the regulation has not yet been approved. There is a need to develop training for insurance inspectors. If a homeowner decides there is another way to provide adequate defensible space rather than do A, B, or C, and ask CDF for approval will there be a timeframe to receive approval. Ms. Frediani asked if a waiver program could be implemented for people who choose not to be in compliance (may not want to clear their property), they would sign a waiver, and if their house burns to the ground it is the homeowner's problem, they can take it up with their insurance company. CDF personnel can choose to not put their staff at risk by trying to save that property.

Member Bosetti asked Mr. Tom Hoffman what latitude has been given to insurance companies regarding this law.

Mr. Hoffman said the State Fire Marshal's (SFM) Office recently went through some building construction standards rule-making, which was approved by the Building Standards Commission. Paragraph F, which inserted a provision that talks about a new building or structure that is damaged by a fire which requires a building permit shall obtain a certification from the local building official that the structures proposed with all applicable state and local building standards. Upon request, they shall provide to the insurer a copy of that certification. The point where insurance companies become involved is when a new structure is being contemplated after a fire, not to existing structures.

As Member Marckwald interprets the code, he says there is nothing in the code which says what somebody has to do in terms of meeting the defensible space code.

Chairman Dixon asked Mr. Zimny to address the question raised by Mr. Hoffman about the first thirty feet.

Mr. Zimny said regarding the regulation and incorporation of line 20 of the regulation, adding in text as stated in the guidelines regarding single species, well-pruned vegetation, etc. ought to be added to the regulation to make clear what the requirements are to make this regulation consistent with the statute, which permits such vegetation be retained in the zero to thirty foot segment. A definition of the two zones (0-30 feet and 30-100 feet) were necessary because the area closer to the house requires more intensive treatments than areas which are further away from the house.

Member Giacomini asked what the process will be for updating and making clarifications once the regulations are adopted. Member Giacomini would like to see more clarifications. She, like Member Nehring, is not sure if she is in compliance.

Mr. Zimny said if the Board makes substantive changes to the standard, they need to go through the noticing and hearing process again. OAL provides for having non-substantive changes (spelling error, changes which provide clarity or better words) filed with OAL but not have to go through the formal process.

Member Giacomini asked how the distribution mode and access of getting this information to insurance companies and property owners would be handled.

Mr. Zimny said each CDF unit would use their normal channels for communicating their Firesafe requirements in the format which their residents are most familiar with. Chief Hoffman and his staff are researching the best methods for communicating Firesafe requirements to land owners. Some possible methods of communication are bill boards and easily-accessed websites.

Member Bosetti asked if the Board should continue these discussions with the public hearing open or should the public hearing be closed and continue discussions.

Member Nawi asked if the public hearing were closed, could the Board still ask questions of CDF and the Regulations Coordinator.

Chairman Dixon said yes.

Member Bosetti said this is a long and important process, which the Board needs to keep its hands on. Member Bosetti feels that refinements need to come back to board.

Member Nehring did not like the use of the phrase "single specimens" throughout the rule. Member Nehring is concerned about the landowner who has two 20' tall palm trees within 30 feet of the property, one in the back and one in the front - are they single specimens or multiple specimens. The use of the word "single" can have implications for the landowner. How do you define single specimens?

Mr. Zimny said the term "Single Specimen" is a term from statute. The term was used in the 30 foot section. Mr. Zimny suggested the Board adopt as part of their findings the term "single specimens" be clarified.

Member Nawi felt the Legislature carved out a portion of LRA to which these restrictions apply and to which they don't. They defined high fire hazard severity zones. Member Nawi believes this infers a

Legislative intent that these restrictions don't apply to LRA. Why not carve out LRA from this only, rather than limiting to SRAs, and hope that the Federal Government find this useful and address this issue on Forest Service lands.

Mr. Zimny said regarding the application of 4291 on public land, Board staff received a comment from East Bay Regional Parks that reiterated in their interpretation that 4291 does not apply to public lands. Section I further classifies and defines who this applies to -it says private individuals who own, lease, etc. Mr. Zimny suggests adding to line 17 of the regulation, further clarification of what exactly we are expecting this regulation to apply to. Mr. Zimny feels it is appropriate to be focusing on SRA and adding a clause that suggests other places where PRC4291 applies is not being excluded by this regulation and to discuss federal lands on those locations which meet the description of private lease.

Mr. Hoffman agrees with what Mr. Zimny said, but feels the same result can be achieved by striking SRA in the wording. The Department could support the Board's interpretation and direction of what applies on federal lands.

Member Nawi had questions regarding page 5 of the Guidelines under C General Guidelines there were 4 items. Number 1 is clear that it applies to the area within 30 feet. Number 2 is reduced fuel zones, and Number 4 is reduced fuel zones. Is number 3 intended to apply to both the first 30 feet and the next 70 feet? What is the applicability?. The other three are specific in their applicability. Member Nawi would like to see the definition of homeowner. It would be helpful to hear why this is in compliance with CEQA.

Mr. Zimny said it is intended to apply to the 30' to 100' area. Mr. Zimny would like to research the 0' to 30'. Mr. Zimny said the CEQA compliance we are operating under is in two specific sections of CEQA laws and guidelines. Under Title 14 of the regulations adopted by the Board, specific fuel hazard reduction treatments out to 100' have been identified by the Resources Agency Secretary as applicable for a categorical exemption to CEQA documentation in the EIR. Mr. Zimny reviewed other sections of 15304 which would result in the project not being compliant with the categorical exemption. They are: cumulative effects, historical or archeological impacts, significant effects from unusual circumstances and scenic highways. As part of the evaluation, the Board concluded when actions conducted consistent with state and federal laws and guidelines presented in this publication, none of those impacts are likely; and we, therefore, find consistency with CEQA Section 15300. Additionally there is merit for a finding that the rule is also consistent with the CEQA statutory exemption under Section 21080 (b)(4) specifying that actions necessary to prevent or mitigate an emergency..

02-06-9- Mr. Bosetti made a motion to close the public hearing. Member Nawi seconded the motion, and a roll call vote was taken.

Nawi	Aye
Nehring	Aye
Bosetti	Aye
Marckwald	Aye
Giacomini	Aye
Ostrowski	Aye
Saito	Aye
Dixon	Aye

The motion was carried unanimously.

Member Bosetti thought the Board should take note of the need for specific language of single specimens. Member Bosetti is comfortable with the basis of the exemption for CEQA, but believes legal council decide what is best.

Member Giacomini recommended making the suggested changes and bringing it back to the Board next month for review. She is not comfortable voting on this issue today.

Member Nawi talked to Mr. Bill Stewart at lunch. Member Nawi feels Mr. Stewart can shed some light onto the SRA issue.

Mr. Bill Stewart, Fire Resources Program, said he has been working on the very high fire severity zones which tie into the government code part of this. Section 4290 says the Board shall adopt regulations implementing minimum fire safety standards related to defensible space which are applicable to state responsibility areas (SRA) lands under authority of Department and 4291 goes on from there. CDF does this for SRA (not LRA) statewide. The Legislature intended to apply only to SRA areas.

Member Nawi is comfortable with the language. He supports adoption of regulation, and would like to have Mr. Zimny and Mr. Reeves see if 15 day notice is appropriate.

Member Bosetti said the regulation has taken better part of year at committee and two months at the Board. The document could be improved in time, but we need to get to Department. The regulation needs to be focused on SRA lands and not open-ended. Mr. Bosetti is uncertainty how the guidelines will be implemented on the ground. Mr. Bosetti will go thru document. Mr. Bosetti does not want to strike SRA lands. We are doing this for SRA. LRA is covered by Government Code Section 51175-89. The Legislative intent is every time there is a big fire some Senator passes a bill each time taking another chunk of Firesafe standards in LRA. The Legislature clearly gives cities another set of rules. To bring some clarity back to this, the law asks CDF to update the very high fire severity zones.

Member Marckwald said the regulation has come a long way. In motion we need to urge department to use liberal construction of language for single specimen. Member Marckwald is comfortable with basis of exemption for CEQA, but believes legal counsel should decide the final authority.

Member Nawi believes Statute 4290 has clear indication that the Legislature intended this subsection to apply only to SRA areas, which is consistent with Member Bosetti's focus of discussions in the Resources Protection Committee. Member Nawi would be comfortable leaving the language as provided. Assuming the changes made today minor, Member Nawi is prepared to support adoption of the regulation relying on the Regulations Coordinator and/or Board Counsel to determine as to whether or not this will result in a 15-day re-notice. Member Nawi feels the Board is adequately covered on one or more grounds. It would make sense to set forth as many grounds as possible to support the regulation.

Member Bosetti said the grounds to support the regulation need to be a part of the resolution. Member Bosetti agrees with Member Marckwald's comment that some of the details could be flushed and approved at a later meeting. They would have to be characterized in general terms in the resolution.

02-06-10-Member Bosetti made a motion to adopt the Defensible Space Rule Package that the Board has before them with the changes discussed today.

Page 1, line 10, change the word implementing to implementation, strike the words the “defensible space criteria”. No change to lines 13-17. Line 20, add clarification to the issue of the treatment of single specimens in within the 30 foot clearing standards, add to that the sentence “single specimens of trees or other vegetation may be retained provided they are well-spaced, well-pruned, and create conditions that avoid the spread of fire to other vegetation, or to building or structure.”

Page 5 to address the issue of the use of the term “homeowners” under the section of definitions, Member Bosetti proposes to add a definition for homeowner which is consistent with the legislation. Leaving the words “homeowners” on page 4, paragraph 2 and 3, but defining “homeowner “ as a person, a private individual, organization, partnership or liability company or corporation. The purpose of the use of the term “homeowner” in the process of trying to draft the guidelines was to make them as clear in plain English as the folks it is intended to reach, figuring if we tried to use too much regulatory language. Page 5, paragraph 2 under general guidelines insertion of the word “the” after within and before introduced. Page 6 of 9 no change. Page 7 of 9 no change. Page 8 of 9 – correction of the word “lightening”.

Member Bosetti said these are the only changes to the text that he had notes on, and they will be included inclusively relative to the findings of that. Member Bosetti would motion that the Board find this rule is consistent with the CEQA regulations outlined by staff.

Pages 5 through 8 - the amendment states that the initial statement of reasons referencing the CEQA regulations would be open to any assistance from Member Nawi relative to how that should be phrased.

Member Nawi would include in motion specific finding that adoption of this regulation and it's implementation will not result either individually or cumulatively in any significant effects on the environment. Member Bosetti accepts Member Nawi's addition to the motion.

Member Nawi had two other issues – Page 2 of the regulation, line 3 adding 4291 to make consistent with the A-1. Subsection D beginning on line 12, page 2 is not a sentence. It needs an “is”. Member Nawi asked that Mr. Zimny provide direction on the general guidelines page by #3 whether it is 30 to 100 feet only or the entire structure to the 100 feet. Mr. Zimny will consult with CDF Fire Protection.

It is Member Bosetti's understanding from discussions in Committee that it is applicable throughout the range. Having lived in an area in which there had been clearing, there were people in the neighborhood who actually used large stumps as landscaping elements in their front yards within 30 feet of a structure but had a substantial amount of clearing away from them. That is how 0-100 feet would be applicable with adequate clearance and care is taken to provide disruption of continuity of any passing fire.

Chief Hoffman said the language was added because of public comment CDF received regarding protection of wildlife and species.

Member Nawi seconded the motion, and a roll call vote was taken.

Nawi Aye

Bosetti	Aye
Marckwald	Aye
Giacomini	Abstain
Ostrowski	Aye
Saito	Aye
Dixon	Aye

The motion was carried 6 in favor with one abstention.

The Board Chair felt Member Bosetti , Chief Hoffman, and Mr. Zimny did a fantastic job.

HEARING: THE BOARD WILL CONSIDER ADOPTION OF THE PROPOSED RULE LANGUAGE TO UPDATE A PROCEDURAL PUBLICATION USED TO CLASSIFY STATE RESPONSIBILITY AREAS (SRA)

Mr. Zimny said this is the initial 45-day hearing for a notice published on December 15 for adoption of amendments to the regulation and guidelines for the method of how the Department and Board classify SRA. The regulation and edits to guidelines are in the Board binders. The purposes of the amendments are substantially minor terminology and documentation edits to the guidelines. The substantive changes being made to the guidelines are located page 11. The first change provides the Board greater flexibility on dates in which they can conduct hearings and make effective changes to SRA. When federal becomes private it will be an automatic inclusion to SRA, would not have to go through hearing process. The Board only received 2-3 letters with substantial comments.

Executive Officer Gentry said the Board received a letter from Senator Sheila Kuehl, Chair of the Senate Committee on Natural Resources and Water. The Senator's specific concern was over the "islands" of population mapping Issue. A letter was also received from the Bureau of Land Management requesting notification when federal land has been transferred to private ownership so they can adjust their boundaries.

Due to the lack of feedback, Member Bosetti asked Mr. Zimny how counties were notified of the proposed rule package.

Mr. Zimny said distribution was made using an extensive data base.

Chairman Dixon asked the Department if they had comments.

Chief Hoffman has not been responsible for this program area. At this point the Department has no comments.

Public Comment

Executive Officer Gentry said no one signed up for public comment on this issue.

02-06-10: Member Bosetti made a motion to close public meeting. Member Nawi seconded the motion. All in favor.

Member Bosetti is concerned that no one in Department has comment. There has been no letter of support or concurrence from the Department. Most changes are unsubstantive. The adoption of

federal lands exchange into SRA is an item the Board has seen letters on in the past. Member Bosetti asked if this should be put out as a 15-day notice for comment.

Chairman Dixon deferred action until the next Board meeting when staff and counsel can meet.

02-06-10-Member Nawi made a motion continue this matter for motion for other action until next month and direct staff to discuss changes with the Department and then we will take our motion to act on. Member Bosetti seconded the motion. All in favor.

Chairman Dixon deferred this item until the March agenda with direction for staff to talk with appropriate people in the Department regarding questions raised by Board Member Bosetti.

DISCUSSION OF A RESOLUTION BY THE BOARD TO ACCEPT A GRANT FROM THE WILDLIFE CONSERVATION BOARD TO PURCHASE A CONSERVATION EASEMENT FOR THE SIX RIVERS TO THE SEA LEGACY PROGRAM.

Mr. Jeff Calvert, Forest Legacy Program Coordinator for CDF, requested the Board to consider a resolution allowing CDF to accept a grant for \$2,233,000 from the Wildlife Conservation Board for the purchase of a conservation easement on laqua Ranch a tract (property) of the Six Rivers to the Sea FLP project. CDF received a federal grant, in the amount of \$2,268 in fiscal year 2005 for the purchase of up to 5 of the tracts in the "Six Rivers" project.

The Cooperative Forestry Assistance Act of 1990 created the national Forest Legacy Program to assure that both the traditional uses of private lands and public values of America's forest resources are protected for future generations. California's Forest Legacy Program was designed to help protect California's environmentally and economically important private forest resources. The Program facilitates the cooperative efforts of private forestland owners, land trusts and other non-profit organizations, local communities, state and local government agencies and the federal government. Under this Program, forest landowners have the opportunity, on a voluntary basis, to protect State-recognized important forest resources through appropriate management goals and land use activities. Priority is given to lands that can be effectively protected and managed, and that have important scenic, recreational, timber, riparian, fish and wildlife, threatened and endangered species, and other cultural and environmental values.

The North Coast Regional Land Trust will help broker the deal in Humboldt County. They will contract within to do the monitoring. There is a separate grant from the landowner, an endowment which is placed in trust, to pay for the monitoring. Federal guidelines allow CDF to contract with another non-government entity to do monitoring. Generally, in the Forest Legacy Program the land trust that is brokering the deal is the group that does the monitoring.

Chairman Dixon has profound respect for the Land Trust and supports this project. If the Board adopts the resolution, the Department needs to keep the Board informed of the finality of the monitoring process.

Member Bosetti asked if the resolution was specific to laqua Ranch. In the future will there be additional resolutions.

Mr. Calvert said the resolution is specific to laqua Ranch, and yes there will be future additional resolutions.

Member Saito asked if the federal funding serves as the match for Prop 12 just for this purchase or does it apply to other purchases down the road.

Mr. Calvert explained that because of the wording in the grant we receive from the federal government, CDF can use the federal appropriation for one or all of properties in the project. In this case CDF is trying to leverage the grant as much as possible, which is why they have so many partners, the State Coastal Conservancy, Wildlife Conservation, and CalTrans.

Member Marckwald thinks this is a very exciting project. He asked how much the total federal grant amount was that could go to one or more projects

Mr. Calvert said they are using \$2.268 million, about 40% of federal money, on this project. Agreement term is from February of this year to December.

Member Marckwald noted that the easement instrument was not in the package, and asked why.

Mr. Calvert there was no reason except that it is a lengthy document, but he will provide it. The conservation easement is a very conservative conservation easement. With regard to the riparian corridor, there is no harvesting within the riparian corridors except for safety reasons; there is an allowance within the riparian corridors to perform rehabilitation work such as the Department of Fish and Game may want to for salmon. All single tree selection and root tree selection are restricted to 25% of inventory in any ten year period. The openings for the root selection cannot exceed 2 ½ acres. In any decade there cannot be more than 10% of the property with existing unstocked openings on them. From a Forest Practice sense, what we have is a fairly conservative approach to manage these stands. CDF has been working with this type of conservation easement since 1998 and has evolved over time. There is always a lawyer representing the landowner, so it is an interesting process. The conservation easement restricts just those activities that it is specific to. CDF's role remains the same.

Member Marckwald asked if the North Coast Land Trust co-inhabit any of the enforcement responsibilities.

Mr. Calvert said CDF is holder of the easement; according to federal regulations (because federal funds were used) a government entity must hold title to the easement. All enforcement lies with CDF.

Member Marckwald inquired why this is an unrecorded instrument as distinct from a recorded instrument, the notice of unrecorded rent agreement.

Mr. Calvert responded that the conservation easement is a recorded instrument, to let people know that there is also a grant over and above the restrictions of the unrecorded instrument. It is a tracking device to ensure that monies that are put into escrow are going to be used exactly for the purposes agreed to.

Member Marckwald congratulated Mr. Calvert and the Department for their accomplishments on this project.

Member Ostrowski asked what was the direction or policy that moves the easements toward specific forest practices and land management, rather than just purchasing development rights.

Mr. Calvert said it was explained to him by the conservation lawyers, lawyers who deal with federal tax code and these particular regulations, in order for this to be considered a conservation easement, certain things must be given up, and certain tangible things more so than just the development rights. A lot of tax and federal laws go into crafting these conservation easements. From beginning landowners know if they go down this particular path with a conservation easement, they will give up some of their ability to harvest timber.

Member Ostrowski asked how much it will cost for CDF to administer this easement.

Mr. Calvert said there was not cost to for CDF to monitor, an endowment to pay for the monitoring, which is based on formula. The land trust over time is to provide expenditure equal to the cost of monitoring. The North Coast Regional Land Trust will monitor on an annual basis. It will not preclude CDF from any of its other obligations or regulatory regulations on property. CDF will not conduct the annual monitoring. A CDF employee will attend the monitoring sessions. Costs will come out of the federal grant.

Member Ostrowski asked what percentage of the appraisal was for lost timber and grazing production.

Mr. Calvert could not remember the percentage. Within the riparian zones it covered all trees legally available to harvest that were retained in the boundaries of the riparian zone.

Member Ostrowski inquired if an analysis had been made to ensure this is consistent with management restrictions continue to allow property to be managed as a working forest and ranch, with the intent of the Forest Practices Act.

Mr. Calvert stated that Dr. Helge Eng reviewed the conservation easement at the request of the Coastal Conservancy. The conservation easement does not violate the terms of the Forest Practice Act. It does provide for sustained harvesting

Member Nawi supports program and recognizes how difficult it is to bring a program like this to fruition. Has CDF made a determination that if a landowner continues to carry out timber harvesting operations consistent with the terms of the easement and the Forest Practice Rules that timber harvesting on this property will be sustainable.

Mr. Calvert said the landowner has no obligation to harvest timber. Landowner can manage as they see fit. All appraisals have been approved on Price Creek.

Member Nawi said the resolution needs some minor corrections.

Member Giacomini feels it is critical with both grazing practices and forest practices that the herbage in the easement doesn't back you into a corner where it is not economical viable or sustainable to have those practices ongoing on property.

Mr. Calvert assured Member Giacomini that the conservation easements have been thoroughly evaluated by the landowner's lawyers' and by the landowners. The conservation easement restricts just those activities that it is specific to, anything else it doesn't specify

02-06-11-Member Nawi made a motion to approve the resolution with slight changes. Member Bosetti seconded the motion. All were in favor. The motion was presented with the corrections as noted.

Member Ostrowski supports this type of easement. He is concerned that CDF is using limited public monies to impose management philosophies and long-term commitments that are a detriment to sustainable forestry. In the future Member Ostrowski would like to look at this further.

Member Nawi felt it would be a benefit to everyone if there were more time to review the terms of the easement.

Member Bosetti is supportive of the resolution as adopted with the understanding that it is specific to the conservation easement.

Public Hearing

Mr. Richard Gienger supports the resolution. Mr. Gienger asked if the easement covered complete development or some development in some part. He also asked about restrictions relative to grazing, can certain areas be fenced off.

Mr. Calvert stated in regard to development, it is a large property and there is no commercial development allowed on the property. There is a contingency to build one additional residence on the property. There is no allowance for any construction on riparian zones except for fences.

Chairman Dixon asked which Board Members were in favor of the motion and who was opposed. All were in favor. Motion carried unanimously.

BOARD PRIORITIES

Chairman Dixon asked the Board members to comment on the Draft Committee Priorities for 2006. The Chairman felt it is a very comprehensive list. The list has been shortened, but there are some priorities that are not on the list. Chairman Dixon may exercise the authority to direct the Forest Practice Committee to make Threatened and Impaired Rules a number one priority. Chairman Dixon is preparing to make Board Member assignments to the Committees.

Member Bosetti said that the Forest Practice Committee tried to narrow down the list, and that Threatened and Impaired Rules were combined with the line item "FP Rules for Watersheds with Threatened or Impaired Values (T&I).

Member Giacomini noted that the Board wanted to keep the priority list slim, but felt that rangeland water quality was appropriate to be on this list.

Member Bosetti said with new Board Members being assigned to Committees, there will be new ideas and perspectives to consider.

Chairman Dixon doesn't anticipate the need to delay for the new Board Members.

Member Marckwald encourages Committee Members to let the Committee Chair know what their priorities are. We don't want to have too many priorities and not be able to accomplish them. Priorities take time.

Member Ostrowski agrees with Member Marckwald. He thinks the list needs to prioritize by time-sensitive items, or at least identify time-sensitive items. We need to move forward.

Member Nawi agrees with the Chairman that Committee Chairs should have flexibility. Member Nawi proposes that on Policy and Management Committee, the second to last bullet under lower priority items "Cumulative Effects Assessment" be moved up and called "Treatment of Watershed Effects".

Member Marckwald feels time needs to be spent getting to know the State Water Resources Control Board (SWRCB). The SWRCB are increasingly making decisions at the Sacramento and Regional level. The SWRCB is the missing agency piece.

Chairman Dixon said if the Committee Chairs are comfortable with the basic list, both he and Executive Officer Gentry will discuss the list regarding what they can and cannot complete. The list will be emailed to the Committee Chairs.

UPDATE ON THE DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR) FOR JACKSON DEMONSTRATION STATE FOREST (JDSF) DRAFT MANAGEMENT PLAN

Executive Officer Gentry reported that the first of two hearings on the DEIR for Jackson Demonstration State Forest Ukiah. Eleven people gave comments. There were more spectators than commentators. Many people indicated they would prefer to give comment in Sacramento. At the hearing tomorrow Executive Officer Gentry will explain that the hearing is not intended to be interactive, it is a listening process for Board Members to hear the public's comments not to offer comments. The options and alternatives before the Board are many.

Dr. Russ Henly, Assistant Deputy Director for Resource Protection and Improvement, spent the last two days in Ukiah meeting the Mendocino Forest Council and the Board of Supervisors. The Mendocino Forest Council was created to provide advice on forestry issues to the Board of Supervisors. Dr. Henly emphasized the importance that the Board of Forestry places on public comment from organizations, such as the Board of Supervisors. At both meetings, member of the public were present who gave testimony. The discussions at both meetings, on both the public side and the Forest Council and Board of Supervisors side, focused on Alternative C-1 from the DEIR. There was much discussion for Alternative D, and some discussion of alternatives E and F. Key issues of discussion were use of clearcutting, use of herbicides in county, and the need to get Jackson Demonstration State Forest back into active operation. The Forest Council voted and they were split between Alternatives C-1 and D. The Board of Supervisors had a 3-2 split between Alternatives C1 and D, with Alternative D in favor. The Board of Supervisors felt that Alternative D had the political support of the people behind it to get Jackson back into the business again.

Chairman Dixon asked Dr. Henly if the Mendocino Forest Council or Board of Supervisors intended to travel to Sacramento for the February 9 hearing.

Dr. Henly did not know if anyone from the Board or Council were attending.

Member Nawi asked Dr. Henly if the county intends to provide any more specific comments regarding on the draft document in support of recommending Alternative D.

Dr. Henly reported that Council and Board discussed putting together a letter with their concerns about budget issues.

Member Marckwald asked if Alternative D was substantially more restrictive of how herbicides can be managed.

Dr. Henly said interpretations are somewhat fuzzy. The Citizens Advisory Committee had the most substantial riparian buffer protection for hardwoods than any of the alternatives.

Member Ostrowski asked if the Board could craft something to blend the public comments and create another option for the Board's consideration.

Dr. Henly said the Board has the opportunity to pick one of the Alternatives as a whole or to mix and match components of the Alternatives. Dr. Henly felt enough analysis have been done there should not be a need for a significant amount of analysis to support a new Alternative.

Executive Officer Gentry distributed a letter received from Paul Carroll of Menlo Park on Feb 6. In his letter, Mr. Carroll stated there was a problem obtaining hard copies of the DEIR in Fort Bragg. He requested a hard copy of the DEIR from a copy shop in Fort Bragg on January 5, but it was not available until January 23. Mr. Carroll requested extending the public comment for 30 more days. The Executive Officer checked with local copy shops yesterday; three copies of the DEIR were purchased in Fort Bragg, three copies purchased in Willits, and one copy purchased in Ukiah.

Chairman Dixon commented that the Board prepared a very good draft environmental impact report. Should the Board proceed on schedule as projected or prolong public comment period. Chairman Dixon would not want to see the process jeopardized by having someone decide to litigate on the issue of not covering our bases allowing time for public comment. The Chairman favors extending public comment period by 15 or 30 days.

Member Nawi is not aware of any case where an environmental impact report was invalidated based on failure to allow enough time for public comment. The preparation of the DEIR had many delays. Member Nawi felt that since the Board took so much time preparing the DEIR, it sends a better signal to the public to accommodate this request.

02-06-13-Member Nawi made a motion to grant 15-day extension for the DEIR. Member Marckwald seconded the motion. All were in favor. Motion carried unanimously.

REPORT OF SENSITIVE WATERSHED NOMINATIONS REVIEW

Executive Officer Gentry had nothing to report. The next meeting date has not been coordinated.

REPORT OF THE REGULATIONS COORDINATOR

During the March meeting, the Board is likely to hear the Amador Plan Hearing for rates which the Department charges for non-fire emergencies and services provided to local counties under contract

Mr. Chris Zimny, Regulations Coordinator, reported. There may be results from the work group that might re-open the hearing. The SRA reclassification will be heard in March, and the adoption of permanent Tahoe WLPZ regulations is scheduled for its first 45-day hearing in March.

REPORT OF THE EXECUTIVE OFFICER

Executive Officer Gentry reported on upcoming field trips for the Board. They are: April-San Diego; May-Lake Tahoe a joint meeting with Fish and Game; June-Los Angeles to review fire safe inspection practices; August-Santa Cruz; September-Mt. Shasta.

PUBLIC FORUM: Members of the public may address the Board on any topic within its jurisdiction not otherwise on the agenda. Submittal of written comments is encouraged to ensure that all comments will be included in the record before the Board. Please be prepared to summarize comments to three minutes in length, or otherwise at the discretion of the Chairman.

Mr. Adrian Miller, representing the California Licensed Foresters Association, offered comments regarding conservation easements. CLFA supports the concept of private agreements between a willing buyer and a willing seller. CLFA asks the Board when endorsing these types of programs, which are often funded through public dollars, to consider that these management plans go beyond our lifetime. Limitations of activities could have ramifications down the road. Often times conservation easements have extensive buffers.

Mr. Richard Gienger congratulated the new Board members for their appointment to the Board. Mr. Gienger was gratified to see Member Nawi put an emphasis on accumulative watershed issues. He feels the Board needs to deal with adequate monitoring and tracking impacts, and raising standards. In order for the public to accept performance standards there needs to be a way to show that things are being done correctly. A timber recommendation for Coho recovery is to have a process for tracking/monitoring impacts. Mr. Gienger supports the BCP for more Board staff to deal with issues. Mr. Gienger thanked Chris Zimny and the CDF staff for the report on the SNTMP Workshop. He is looking forward to Road Management Plan Draft.

NEW AND UNFINISHED BUSINESS

Nothing to report.

ADJOURNMENT

The Chairman adjourned the February 2006 meeting of the Board. The Board will reconvene at 9:00 tomorrow, February 9th, for a public hearing on Jackson Demonstration State Forest Draft Environmental Impact Report.

Respectfully submitted,

ATTEST:

George D. Gentry
Executive Officer

Stan Dixon
Chairman